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Proposed General Bankruptcy and Restructuring
Attorneys for Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re:

HI-FIVE ENTERPRISES, LLC, a
California limited liability company; **ONE**
SOUTH LAKE STREET, LLC, a
Nevada limited liability company; and
WILD GAME NG, LLC, a Nevada
limited liability company d/b/a The Siena
Hotel Spa & Casino,

Debtors.

☒ Affects all Debtors

☐ Applies only to Hi-Five Enterprises,
LLC

☐ Applies only to One South Lake Street,
LLC

☐ Applies only to Wild Game Ng, LLC

Case No. 4:10-bk-48268-RJN

[Jointly Administered with Case Nos. 4:10-bk-
48272-RJN and 4:10-bk-48270-RJN]

Chapter 11

**APPLICATION FOR ORDER APPROVING
THE EMPLOYMENT OF BULLIVANT
HOUSER BAILEY PC AS SPECIAL
GAMING COUNSEL TO THE DEBTORS
EFFECTIVE AS OF SEPTEMBER 1, 2010**

*[No Hearing Required Unless Requested
Pursuant to B.L.R. 9014-1(b)]*

1 Hi-Five Enterprises, LLC, together with its debtor affiliates, One South Lake Street, LLC
2 and Wild Game Ng, LLC (collectively, the “Debtors”), hereby present this Application seeking
3 entry of an order, in the form of Order attached hereto as Exhibit “1”, authorizing the
4 employment and retention of Bullivant Houser Bailey PC (“Bullivant”) as special gaming counsel
5 to the Debtors effective as of September 1, 2010, with compensation that is at the expense of the
6 Debtors’ estates and in such amounts as this Court may allow. In support of this Application, and
7 in order to provide certain disclosures under 11 U.S.C. §§ 504 and 1103(a) and Rules 2014 and
8 5002 of the Federal Rules of Bankruptcy Procedure, the Debtors concurrently submit the
9 Declarations of Robert B. Ziems (the “Ziems Declaration”) and Barney Ng (the “Ng
10 Declaration”), which is incorporated herein by reference, and respectfully represent as follows:

11 **I.**

12 **JURISDICTION AND VENUE**

13 This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and
14 1334(b). Venue of these proceedings is proper in this judicial district pursuant to 28 U.S.C. §§
15 1408 and 1409. Bankruptcy Code sections 327, 328, and 504 and Federal Rules of Bankruptcy
16 Procedure 2014, 2016, and 5002 are the statutory predicates for the relief sought by this
17 Application.

18 **II.**

19 **BASIS FOR RELIEF**

20 Under 11 U.S.C. § 327(e), a debtor-in-possession is authorized to employ professional
21 persons “for a specified purpose, other than to represent the trustee in conducting the case ... if
22 such attorney does not represent or hold any interest adverse to the debtor or to the estate with
23 respect to the matter on which such attorney is to be employed.” 11 U.S.C. § 327(e). Under 11
24 U.S.C. § 328(a), a debtor-in-possession may employ professional persons under 11 U.S.C. §
25 327(e) “on any reasonable terms and conditions of employment, including on a retainer, on an
26 hourly basis, or on a contingent fee basis.” 11 U.S.C. § 328(a).

27 As required by Rule 2014(a) of the Federal Rules of Bankruptcy Procedure, this
28 Application sets forth: (a) the specific facts showing the necessity for Bullivant’s employment;

1 (b) the reasons for the Debtors' selection of Bullivant as their special gaming counsel; (c) the
2 professional services to be provided by Bullivant; (d) the arrangement between the Debtors and
3 Bullivant with respect to Bullivant's compensation; and (e) to the best of the Debtors' knowledge,
4 the extent of Bullivant's connections, if any, to certain parties in interest in this matter.

5 III.

6 STATEMENT OF FACTS

7 The Debtors wish to employ Bullivant as special gaming counsel in connection with these
8 cases. Mr. Ziems has extensive experience providing business and legal advice to gaming
9 industry companies such as the Debtors and represents some of the industries' largest gaming
10 companies. Mr. Ziems also served as in-house general counsel to many large Nevada gaming
11 licensees. Bullivant and Robert B. Ziems are therefore fully capable of handling all of the
12 Debtors' current gaming needs and are fully aware of the Debtors' particular gaming needs in
13 these cases.

14 A summary of the experience and qualifications of those members of Bullivant who are
15 expected to render services to the Debtors is found in the Ziems Declaration, concurrently filed
16 herewith in support of this Application.

17 IV.

18 SCOPE OF EMPLOYMENT

19 The Debtors require Bullivant to render the following types of professional services:

- 20 a. Coordinate the Debtors' compliance with Nevada's gaming regulations;
- 21 b. Respond to the Nevada Gaming Commissions' Complaint;
- 22 c. Provide general gaming advice and counseling;
- 23 d. Conduct any administrative or other litigation related to the foregoing; and
- 24 e. Any other gaming related legal services required for the administration of these
25 estates.

26 The Debtors may, from time to time, request that Bullivant undertake specific matters
27 beyond the limited scope of the responsibilities set forth above. Should Bullivant agree in its
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1 discretion to undertake any such specific matters, Debtors seek authority herein to employ
2 Bullivant for such matters, in addition to those set forth above, without further order of this Court.

3 The Debtors do not foresee any duplication in the services to be rendered to the Debtors
4 by Bullivant and those services rendered to the Debtors by their general bankruptcy and
5 restructuring counsel, Arent Fox, LLP.

6 V.

7 **COMPENSATION AGREEMENT**

8 Bullivant asserts that the Debtors did not owe Bullivant any amounts for legal services,
9 expenses, or costs incurred before July 21, 2010 (the "Petition Date"). Bullivant has performed
10 certain post-petition services and has agreed to accept as compensation for its post-petition
11 services such sums as may be allowed by this Court in accordance with law, based upon the time
12 spent and services rendered in these cases, the results achieved, the difficulties encountered, the
13 complexities involved, and other appropriate factors. Subject to the Court's approval, Bullivant
14 will charge Debtors for services in accordance with its ordinary and customary hourly rates. The
15 primary attorney anticipated to perform work for the Debtors is Robert B. Ziems whose hourly
16 rate is currently \$350.

17 The Debtors' hotel, casino and spa business is located at the Siena Hotel Spa & Casino in
18 Reno, Nevada (the "Siena"). If the professionals of Bullivant must provide services to the
19 Debtors in Reno and there is unused room availability, then they will stay at the Siena and receive
20 a discounted or complimentary rate for rooms and related services to lower the amount of such
21 costs, for the benefit of the estates.

22 VI.

23 **PROFESSIONAL FEE STATEMENTS AND FEE APPLICATIONS**

24 Bullivant is not requesting a retainer. Bullivant will file one or more fee applications
25 seeking Court authority to receive compensation and reimbursement of expenses from the
26 Debtors. At the conclusion of these cases, Bullivant will file a final application for payment of
27 fees and expenses. To the extent any final fees or expenses are disallowed by this Court, such
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1 amounts will be disgorged by Bullivant and returned to the Debtors pursuant to 11 U.S.C.
2 § 329(b).

3 No additional compensation will be paid by Debtors to Bullivant, except upon application
4 to and approval by the Bankruptcy Court after notice and a hearing. There are no arrangements
5 between Bullivant and any other entity for the sharing of compensation received or to be received
6 in connection with these cases, except insofar as such compensation may be shared among the
7 partners, of counsel, and associates of Bullivant.

8 **VII.**

9 **DISINTERESTEDNESS AND POTENTIAL CONFLICTS OF INTEREST**

10 To the best of the Debtor's knowledge, based upon the accompanying Ziems Declaration,
11 except inasmuch as they are or have been the attorneys for the Debtors and except as otherwise
12 set forth in the Ziems Declaration, Bullivant and all of the professionals comprising or employed
13 by Bullivant do not hold or represent an interest adverse to the Debtors or the Debtors' estates
14 with respect to the matters for which Bullivant will be employed. Bullivant will not participate in
15 any aspect of these cases in which Bullivant's interests conflict with the interest of these chapter
16 11 cases.

17 **VIII.**

18 **NOTICE AND NO PRIOR APPLICATION**

19 Notice of this Application has been provided in compliance with this Court's Order
20 Establishing Notice Procedures. The Debtors respectfully represent that such notice is sufficient,
21 and requests that this Court find that no further notice of the relief requested herein is necessary
22 or appropriate. No prior application has been made for the relief requested herein to this or any
23 other Court.

24 **WHEREFORE**, the Debtors believe that the retention and employment of Bullivant as
25 special gaming counsel is in the best interest of the Debtors, and their estates and creditors, and
26 the Debtors respectfully request that this Court: (a) approve the employment and retention of
27 Bullivant as special gaming counsel to the Debtors effective as of September 1, 2010, in the form
28

1 of Order attached hereto as Exhibit "1", as set forth in this Application, and (b) grant such other,
2 further relief as is just and proper.

3
4 Dated: September²³, 2010

Hi-Five Enterprises, LLC, One South Lake
Street, LLC, and Wild Game Ng, LLC

5
6 By: 
7 Barney Ng
8 Managing Member

9 Submitted by:

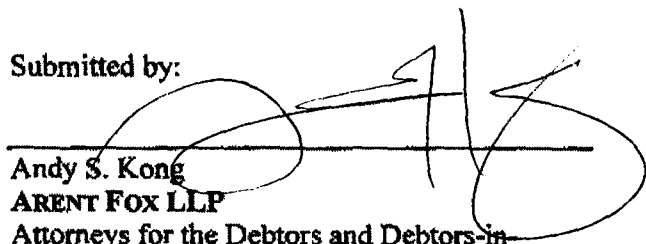
10 
11 Andy S. Kong
12 ARENT FOX LLP
13 Attorneys for the Debtors and Debtors-in-
14 Possession
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EXHIBIT "1"

1 Aram Ordubegian (SBN 185142)
2 Andy S. Kong (SBN 243933)
3 **ARENT FOX LLP**
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5 Los Angeles, CA 90013-1065
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11 *Proposed* General Bankruptcy and Restructuring
12 Attorneys for Debtors and Debtors-in-Possession

13 **UNITED STATES BANKRUPTCY COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **OAKLAND DIVISION**

16 In re:

17 **HI-FIVE ENTERPRISES, LLC**, a
18 California limited liability company;
19 **ONE SOUTH LAKE STREET,**
20 **LLC**, a Nevada limited liability
21 company; and **WILD GAME NG,**
22 **LLC**, a Nevada limited liability
23 company d/b/a The Siena Hotel Spa &
24 Casino,

25 Debtors and Debtors-
26 In-Possession.

Case No. 4:10-bk-48268-RJN

[Jointly Administered with Case Nos.:
4:10-bk-48270-RJN and 4:10-bk-48272-RJN]

Chapter 11

**[PROPOSED] ORDER APPROVING
EMPLOYMENT OF BULLIVANT HOUSER
BAILEY PC AS SPECIAL GAMING
COUNSEL TO THE DEBTORS EFFECTIVE
AS OF SEPTEMBER 1, 2010**

27 ☒ Affects all Debtors

28 ☐ Applies only to Hi-Five
Enterprises, LLC

☐ Applies only to One South Lake
Street, LLC

☐ Applies only to Wild Game Ng,
LLC

*[No Hearing Required Pursuant to
B.L.R. 9014-1(b)]*

1 The Court has reviewed and considered the *Application for Order Approving the*
2 *Employment of Bullivant Houser Bailey PC as Special Gaming Counsel to the Debtors*
3 *Effective as of September 1, 2010* (the "Application") filed by the above-captioned debtors
4 and debtors-in-possession (the "Debtor"). In the Application, the Debtors sought
5 authority to employ Bullivant Houser Bailey PC ("Bullivant") as special gaming counsel
6 under 11 U.S.C. § 327(e) and Rule 2014 of the Federal Rules of Bankruptcy Procedure.
7 No objections to the Application have been filed.

8 After considering the Application; and the Declarations of Robert B. Ziems and
9 Barney Ng in Support of the Application; and all other pleadings filed in support thereof,
10 and the record in these cases, the Court finds that: (1) Bullivant does not hold or represent
11 any interest adverse to the Debtors with respect to the matters for which it is being
12 retained and is a "disinterested person" as that phrase is defined in 11 U.S.C. § 101(14);
13 (2) employment of Bullivant for the special purposes set forth in the Application is in the
14 best interest of the Debtors and the estates; (3) notice of the Application was adequate and
15 appropriate under the particular circumstances and no other notice need be given; (4) no
16 hearing on the Application is required pursuant to the Bankruptcy Local Rules; and
17 (5) other good and sufficient cause exists for granting the relief requested in the
18 Application:

19 **THEREFORE, IT IS HEREBY ORDERED THAT:**

- 20 1. The Application is granted.
- 21 2. The Debtors are authorized to employ Bullivant as their special gaming
22 counsel for the purposes and on the terms set forth in the Application, as of September 1,
23 2010, with compensation that is at the expense of the Debtors' estates and in such amount
24 as this Court may hereafter allow.

25 ****END OF ORDER****

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27

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In re: **Hi-Five Enterprises, LLC**

CHAPTER 11

Debtor(s).

CASE NUMBER 4:10-bk-48268

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Arent Fox LLP, Gas Company Tower, 555 West Fifth Street, 48th Floor, Los Angeles, CA 90013.

A true and correct copy of the foregoing document described **APPLICATION FOR ORDER APPROVING THE EMPLOYMENT OF BULLIVANT HOUSER BAILEY PC AS SPECIAL GAMING COUNSEL TO THE DEBTORS EFFECTIVE AS OF SEPTEMBER 1, 2010** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On September 28, 2010 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

☒ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served):

On September 28, 2010 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on September 28, 2010 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

SERVED BY EMAIL

Lynette C. Kelly on behalf of U.S. Trustee Office of the U.S. Trustee
lynette.c.kelly@usdoj.gov

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

September 28, 2010

Date

SIMONA FILIP

Type Name

/s/ Simona Filip

Signature

ADDITIONAL SERVICE INFORMATIONI. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") :

Shawn M. Christianson on behalf of Creditor Oracle America, Inc.
schristianson@buchalter.com

Janet L. Chubb on behalf of Interested Party National Automobile Museum
jlc@jonesvargas.com, tbw@jonesvargas.com

Cecily A. Dumas on behalf of Creditor Konami Gaming, Inc.
cdumas@friedumspring.com, calas@friedumspring.com

Joseph D. Frank on behalf of Creditor Pepsi Beverages Company
jfrank@fgllp.com

Eric D. Goldberg on behalf of Creditor RE Reno, LLC
egoldberg@stutman.com

Geoffrey A. Heaton on behalf of Creditor Committee Official Committee of General Unsecured Creditors for Hi-Five Enterprises, LLC
gheaton@duanemorris.com

Lynette C. Kelly on behalf of U.S. Trustee Office of the U.S. Trustee/Oak
lynette.c.kelly@usdoj.gov

William J. Lafferty on behalf of Creditor NV Energy, Inc.
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Melissa Lor on behalf of Creditor International Game Technology
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Daniel A. McDaniel on behalf of Creditor General Produce Co., Ltd.
dampc@pacbell.net

Office of the U.S. Trustee/Oak
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Aron M. Oliner on behalf of Creditor Committee Official Committee of General Unsecured Creditors for Hi-Five Enterprises, LLC
roliner@duanemorris.com

John D. Suhr on behalf of Creditor Creditors Bureau USA
jsuhr@fresnocredit.com, val@fcbcbc.com;jeanne@fcbcbc.com

II. SERVED BY U.S. MAIL:

Chief Judge Randall J. Newsome
U.S. Bankruptcy Court
Attention: Chambers Copies
P O Box 2070
Oakland, CA 94604-2070

RE Reno LLC
c/o Jeffrey C. Krause
Stutman Treister & Glatt
1901 Avenue of the Stars, 12th Floor
Los Angeles, CA 90067

IGT
9295 Prototype Dr.
Reno, NV 89521

Konami Gaming, Inc.
585 Trade Center Drive
Las Vegas, NV 89521

Raymond Leasing Corporation
P.O. Box 130
Greene, NY 13778

PDS Gaming Corporation-Nevada
6280 Annie Oakley Drive
Las Vegas, NV 89120

Wells Fargo Bank, National Association
3800 Howard Hughes Parkway, 4th Floor
Las Vegas, NV 89109

Young Electric Sign Company
775 E. Glendale Ave.
Sparks, NV 89101

Bank Wyoming
435 Arapahoe
Thermopolis, WY 82443-1232

Internal Revenue Service
P.O. Box 21126
Philadelphia, PA 19114

REQUEST FOR SPECIAL NOTICE

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GE Money Bank
c/o Recovery Management Systems Corp.
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131-1605
Attn: Ramesh Singh

Creditors Bureau USA
757 "L" Street
Fresno, CA 93721